United Nations CAT/C/EST/QPR/6

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

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Committee against Torture

List of issues prior to submission of the sixth periodic report of Estonia*

The Committee against Torture, at its thirty-eighth session (see A/62/44, paras. 23 and 24), established an optional procedure which consists in the preparation and adoption of a list of issues to be transmitted to the State party concerned prior to the submission of its periodic report. The replies of the State party to this list of issues will constitute its report under article 19 of the Convention.

Specific information on the implementation of articles 1 to 16 of the Convention, including with regard to the Committee's previous recommendations

Article 1

1. With reference to the Committee's previous concluding observations (see CAT/C/EST/CO/5, para. 7), please provide updated information on any progress made in amending the Penal Code with a view to bringing the definition of torture in full conformity with all elements contained in article 1 of the Convention.

Articles 2 and 4

2. With reference to the Committee's previous concluding observations (para. 8), please provide updated information on any steps taken to amend the Penal Code to include penalties for acts of torture that take into account the grave nature of such acts, in accordance with article 4 (2) of the Convention and taking into consideration the Committee's general comment No. 2 (2008) on the implementation of article 2 by States parties.

* Adopted by the Committee at its fifty-fourth session (20 April–15 May 2015).

Article 2[1]

3. With reference to the Committee's previous concluding observations (para. 9), please provide updated information on:

(a) Any effective measures taken to guarantee to all persons deprived of their liberty all the fundamental legal safeguards from the very outset of their detention, namely, the rights to be informed of the reasons for their arrest and of the charges against them; to be informed of their rights; to have prompt access to an independent lawyer and, if necessary, to legal aid, including access to ex officio lawyers during any period of initial police questioning; to inform a family member or another person of their choice about their situation and receive feedback on whether it has been possible to notify them; to receive a medical examination by an independent doctor and, if requested, a doctor of their own choice; to be brought before a judge without delay; and to have the legality of their detention examined by a court, in accordance with international standards;

(b) Whether legislation has been amended to ensure that the police is obliged to immediately notify the parent or guardian of a minor detained as a criminal suspect, and whether the presence of a lawyer is mandatory during police questioning of juveniles detained on suspicion of having committed a misdemeanour;

(c) Measures taken to ensure the monitoring of the provision of safeguards by all public officials to persons deprived of their liberty, including the inclusion of relevant information in detention registers, and the regular monitoring of compliance by officials with these documentation requirements;

(d) Measures taken to ensure that any public official who denies fundamental legal safeguards to persons deprived of their liberty is disciplined or prosecuted, including data on the number of such cases and the nature of the discipline.

4. With reference to the Committee's previous concluding observations (para. 10), please provide information on any revisions of the Code of Criminal Procedure that would regulate the powers of prosecution vis-à-vis the judiciary so that the withdrawal of charges by the prosecution does not result in the termination of criminal proceedings or acquittal but is decided by a court.

5. Please provide information on:

(a) Whether the practice of accommodating remand and sentenced prisoners in police detention houses continues;

(b) Whether remand prisoners continue to be returned to police detention houses for investigation purposes.

[1] The issues raised under article 2 could also be addressed under other articles of the Convention, including article 16. Paragraph 3 of the Committee's general comment No. 2 (2007) on the implementation of article 2 by States parties reads: "The obligation to prevent torture in article 2 is wide-ranging. The obligations to prevent torture and other cruel, inhuman or degrading treatment or punishment (hereinafter 'ill-treatment') under article 16, paragraph 1, are indivisible, interdependent and interrelated. The obligation to prevent ill-treatment in practice overlaps with and is largely congruent with the obligation to prevent torture. ... In practice, the definitional threshold between ill-treatment and torture is often not clear." See also chapter V of the same general comment.

6. With reference to the Committee's previous concluding observations (para. 11), please provide an update on:

(a) Any prosecutions relating to allegations of brutality and excessive use of force by law enforcement personnel during the events that took place in Tallinn in April 2007 and on their outcome;

(b) Progress made in the establishment of a specific registry for allegations of torture and other cruel, inhuman or degrading treatment or punishment as well as in the establishment of an independent mechanism to investigate allegations of torture and ill-treatment;

(c) Investigations into all allegations of torture, ill-treatment and excessive use of force by law enforcement personnel, the number of prosecutions and the penalties imposed on officials found guilty of such offences;

(d) Steps taken to ensure that all victims of torture and ill-treatment obtain redress and have a legally enforceable right to fair and adequate compensation, including the means for the fullest possible rehabilitation, in accordance with article 14 of the Convention;

(e) Steps taken to ensure that law enforcement officials receive training on the absolute prohibition of torture; international standards on the use of force and firearms, including on the liabilities in cases of excessive use of force; and training in professional techniques that minimize any risk of harm to apprehended persons.

7. With reference to the Committee's previous concluding observations (para. 12), please provide updated information on:

(a) Any progress made regarding the adoption of comprehensive legislation on violence against women that would establish domestic violence and marital rape as specific criminal offences;

(b) Progress in establishing an effective and independent complaints mechanism for victims of domestic violence;

(c) Registration by the police of allegations of domestic violence, including sexual violence and violence against children; including data disaggregated by age and gender on the number of complaints, investigations and prosecutions; and sentences handed down for acts of domestic violence;

(d) Progress in ensuring protection for victims of domestic violence, including the issuing of restraining orders and provision of medical and legal services, counselling, redress, rehabilitation and safe shelters for victims; and steps taken to raise the awareness of and train law enforcement personnel in investigating and prosecuting cases of domestic violence;

(e) The implementation and evaluation of the Development Plan for the Reduction and the Prevention of Violence 2010–2014.

8. With reference to the Committee's previous concluding observations (para. 13), please provide updated information on:

(a) Steps taken to enforce the new law against human trafficking and to increase the protection afforded to victims;

(b) Measures taken to investigate, prosecute and punish trafficking in persons and related practices, including disaggregated data on the number of complaints, investigations, prosecutions and sentences handed down for acts of trafficking; and the difficulties experienced in preventing such acts;

(c) The provision of specialized training to police officers, prosecutors and judges on the effective prevention, investigation, prosecution and punishment of acts of trafficking; and efforts to inform the general public about the criminal nature of acts of human trafficking;

(d) The provision of redress to victims of trafficking, including legal, medical and psychological aid and rehabilitation, and shelters and assistance in reporting incidents of trafficking to the police;

(e) Any measures taken to prevent the return of trafficked persons to their countries of origin where there are substantial grounds to believe that they would be in danger of torture and on any efforts to enhance international cooperation aimed at preventing and punishing acts of trafficking.

9. With reference to the Committee's previous concluding observations (para. 14), please provide updated information on any steps taken by the Chancellor of Justice or any other institution to seek accreditation from the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights in order to serve as a national human rights institution and on whether adequate resources have been provided to it to carry out its mandate.

10. Please indicate whether a separate unit or department, with its own staff and budget, has been set up in the Office of the Chancellor of Justice so that it can fulfil its role as the national preventive mechanism, in accordance with paragraph 32 of the guidelines on national preventive mechanisms adopted by the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

Article 3

11. With reference to the Committee's previous concluding observations (para. 15), please provide information on:

(a) Measures taken to ensure that all persons seeking asylum in the State party, including at its border crossings, enjoy all procedural guarantees, including the right of appeal against negative decisions, as well as access to legal assistance and interpreters;

(b) Steps taken to ensure that decisions concerning asylum, including under the accelerated procedure, are taken by the Police and Border Guard Board or a determining authority that meets relevant international criteria;

(c) Steps taken to ensure that victims of torture among asylum seekers are effectively identified and treated accordingly;

(d) Specific steps taken to improve conditions at the Harku Expulsion Centre in order to bring them in line with international standards;

(e) Any training and instruction provided to prison personnel at the Harku Expulsion Centre regarding the use of force and the prohibition of verbal abuse.

Articles 5, 7 and 8

12. Please provide information on whether the State party has rejected, for any reason, requests for extradition by another State of an individual suspected of having committed an offence of torture, and has started prosecution proceedings as a result. If so, please provide information on the status and outcome of such proceedings.

Article 10

13. With reference to the Committee's previous concluding observations (para. 16), please provide updated information on:

(a) The development of specific methodologies to evaluate the effectiveness and impact of the training and educational programmes provided to law enforcement and medical personnel, judges, prosecutors and persons working with migrants and asylum seekers regarding the absolute prohibition of torture and ill-treatment;

(b) Steps taken to ensure that the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment is a mandatory part of the training for all medical professionals and others involved in the diagnosis, documentation and investigation of allegations of torture and ill-treatment.

Article 11

14. With reference to the Committee's previous concluding observations (para. 17), please provide updated information on:

(a) Specific measures taken to improve the material conditions in prisons and police arrest houses, including newly built and renovated ones, in accordance with international standards and, in particular, the efforts to improve the infrastructure, hygiene and sanitary conditions, hot water, full partitioning of in-cell toilets, heating, ventilation, natural and artificial lighting and furniture of such institutions, to repair broken windows and to address overcrowding as of 1 January 2015 at the entry into force of section 11 of the Imprisonment Act;

(b) Any considerations regarding the increased use of alternatives to imprisonment in keeping with the United Nations Standard Minimum Rules for Non-Custodial Measures (the Tokyo Rules) and the adoption of measures to facilitate the reintegration into society of persons deprived of their liberty;

(c) Whether the construction of planned additional prisons and the expansion and renovation of existing places of detention has continued according to schedule and, if not, details of reasons for the delay; also, on whether the police detention houses in Kuressaare and Narva have started to function and whether the three waiting cells at Narva Police Department have been withdrawn from service;

(d) Concrete measures taken to improve conditions in Haapsalu Police Detention House and in the disciplinary unit (Block K1) of Tallinn Prison, both of which should be taken out of service; also, measures to ensure that all cells in police stations are equipped with a means of rest;

(e) Any steps taken to conduct a full review of the use of solitary confinement as a disciplinary sanction and ensure that it is a measure of last resort; also, any steps taken to reduce the use of solitary confinement at Viru Prison, including in relation to juveniles;

(f) Steps taken to establish impartial mechanisms to deal with the complaints of prisoners about their conditions of detention and on specific measures taken in order to provide effective follow-up to such complaints.

15. With reference to the Committee's previous concluding observations (para. 18), please provide information on:

(a) Any specific steps taken to end the use of name badges indicating the language proficiency of prisoners in order to end language-based discrimination against

prisoners and ensure that they are not penalized with regard to administrative or disciplinary matters if they do not have a sufficient knowledge of Estonian;

(b) Steps taken to provide prisoners who have an insufficient knowledge of Estonian with translation services.

Articles 12 and 13

16. With reference to the Committee's previous concluding observations (paras. 11 and 23), please provide detailed statistical data, disaggregated by crime committed, ethnicity, age and sex, on the number of complaints relating to torture and ill-treatment allegedly committed by law enforcement officials and prison officers and on related investigations, prosecutions, convictions and the penal or disciplinary sanctions applied.

Article 14

17. With reference to paragraph 46 of the Committee's general comment No. 3 (2012) on the implementation of article 14 by States parties, please provide information on redress and compensation measures ordered by the courts since the consideration of the last periodic report. This should include the number of requests for compensation that have been made, the number granted and the amounts ordered and actually provided in each case. Furthermore, please indicate what kind of rehabilitation programmes are provided to victims and whether they include medical and psychological assistance.

Article 16

18. With reference to the Committee's previous concluding observations (para. 19), please provide specific information on:

(a) The adherence by prison officers to the new, more specific regulations in force since 2011 concerning the use of restraints in prisons;

(b) The adherence to protocols and the filling in of forms documenting the use of restraints, including the reasons for use, duration of use and the particular method of restraint used;

(c) Steps taken to ensure that all complaints of violations concerning the use of restraints are promptly and independently investigated and that the persons responsible are held to account.

19. With reference to the Committee's previous concluding observations (para. 20), please provide comprehensive updated information on:

(a) Steps taken to ensure effective supervision and independent monitoring by judicial organs of any involuntary hospitalization in psychiatric institutions of persons with mental and psychosocial disabilities;

(b) Specific steps to ensure effective legal safeguards for persons in such institutions, including the right of effective appeal;

(c) Measures to ensure that every patient who is voluntarily or involuntarily hospitalized, or his or her legal guardian, is fully informed about the treatment to be prescribed and is given the opportunity to refuse treatment or any other medical intervention;

(d) Steps taken to provide training to medical and non-medical staff on how to administer non-violent and non-coercive care; and steps taken to establish clear and detailed regulations on the use of restraints and other coercive measures in psychiatric institutions;

(e) Steps taken to ensure the right of persons with mental and psychosocial disabilities or their legal guardians to be sufficiently informed about criminal proceedings and charges against them, the right to a fair hearing and the right to adequate and effective legal assistance for their defence;

(f) Progress in establishing an independent complaints mechanism for persons with mental and psychosocial disabilities, ensuring the right to counsel and to an effective and impartial investigation of complaints of violations of the Convention, bringing those responsible to justice and providing redress to victims.

20. With reference to the Committee's previous concluding observations (para. 21), please provide information on any amendments of the Child Protection Act to prohibit explicitly the corporal punishment of children in all settings, including at home and in alternative care settings, as an offence under the law.

Other issues

21. Please provide updated information on the measures taken by the State party to respond to any threats of terrorism and please describe if and how those anti-terrorism measures have affected human rights safeguards in law and in practice, and how the State has ensured that those measures comply with all of its obligations under international law, especially the Convention, in accordance with relevant Security Council resolutions, in particular resolution 1624 (2005). Please describe the relevant training given to law enforcement officers; the number of persons convicted under such legislation; the legal safeguards and remedies available to persons subjected to anti-terrorist measures in law and in practice; whether there have been complaints of non-observance of international standards; and the outcome of those complaints.

General information on other measures and developments relating to the implementation of the Convention in the State party

22. Please provide detailed information on any other relevant legislative, administrative, judicial or other measures taken since the consideration of the previous report to implement the provisions of the Convention or the recommendations of the Committee. This may include institutional developments, plans or programmes, including resources allocated and statistical data or any other information that the State party considers relevant.